REMARKS

This Amendment responds to the Office Action mailed March 11, 2009 in the above-identified application. Based on the foregoing amendments and the following comments, allowance of the application is respectfully requested.

Claims 23 and 27-36 are currently under consideration. By this Amendment, claim 23 has been amended. The amendment finds clear support in the original application at least in FIG. 1. No new matter has been added.

The Examiner has rejected claims 23 and 27 under 35 U.S.C. §103(a) as unpatentable over Fernandez (U.S. 5,865,358) in view of Gold (U.S. 3,086,365). The rejection is respectfully traversed for the following reasons.

Amended claim 23 is directed to a workpiece cracking device and recites, in part, a second pair of jaws movably mounted on the base, the second pair of jaws comprising a lower jaw and an upper jaw, and a drive moving, in operation, the movably mounted second pair of jaws periodically up and down with respect to a plane of the disk-shaped or plate-shaped production part.

The Examiner contends that Fernandez teaches "a drive (80 & 82) for moving the second pair of jaws up and down with respect to a plane (left surface of element 76 defines the claimed plane) of the workpiece" (Office Action, page 2). Applicant must respectfully disagree. Simply stated, the left surface of element 76 of Fernandez is not the plane of the production part, as claimed. Element 76 is described by Fernandez as a stop member which stops bundle 30 (of sheets 10) in the exact position shown in FIG. 5 (column 4, lines 56-62). Bundle 30 includes articulated sheets 10 (column 2, line 62). Referring to FIG. 5, the workpiece (articulated sheet in bundle 30) is disposed horizontally, and defines a horizontal plane of the workpiece. Furthermore, power cylinders 80, 82, 80' and 82' move clamping members 40A and 44A horizontally in FIG. 5 of Fernandez (column 4, lines 33-51). The horizontal movement of clamping members 40A and 44A for breaking the bundle 30 into portions is not up and down movement with respect to the plane of bundle 30 of workpieces in FIG. 5 of Fernandez. Instead, clamping members 40A and 44A of Fernandez move in horizontal directions about pivot point X (FIG. 4B) and pivot point Y (FIG. 4C).

In summary, Fernandez does not disclose or suggest moving a second pair of jaws, which comprise a lower jaw and an upper jaw, *periodically up and down with respect to a plane of the disk-shaped or plate-shaped production part*, as required by amended claim 23. It is respectfully submitted that the Examiner's interpretation of stop element 76 as the plane of the workpiece is not based on the teachings of Fernandez.

Gold is cited for disclosing a hydraulic actuation system but contains no disclosure or suggestion of a workpiece cracking device. Accordingly, Gold does not contain the teachings that are lacking in Fernandez.

For at least these reasons, amended claim 23 is clearly and patentably distinguished over Fernandez in view of Gold. Claims 27-36 depend from claim 23 and are patentable over Fernandez in view of Gold for at least the same reasons as claim 23.

Based upon the above discussion, claims 23 and 27-36 are in condition for allowance.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: June 11, 2009

Respectfully submitted,

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